



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

DOCKET NO.: CWA-08-2003-0100

IN THE MATTER OF:

DUKE ENERGY FIELD SERVICES

Respondent

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FINAL ORDER

Pursuant to 40 C.F.R. § 22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby ORDERED to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

September 30, 2003
DATE

SIGNED

Alfred C. Smith
Regional Judicial Officer



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII

In the Matter of:)
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Duke Energy Field Services, LP)
)
) **EXPEDITED CONSENT AGREEMENT**
) **DOCKET NO.: CWA-08-2003-0100**
Respondent.)

Complainant, United States Environmental Protection Agency, Region VIII, and Respondent, Duke Energy Field Services, LP, by their undersigned representatives, hereby settle the civil cause of action arising out of a spill of oil that occurred on or about May 1, 2002, and violations of the Spill Prevention Control and Countermeasures (SPCC) Plan regulations, and agree as follows:

The Clean Water Act (the Act), as amended, authorizes the Administrator of EPA to assess administrative penalties against any person who discharges oil into or upon the navigable waters and adjoining shorelines of the United States in quantities that have been determined may be harmful to the public health or welfare or environment of the United States, 33 U.S.C.

§ 1321(b)(6) and (b)(3) or any person who violates the oil pollution prevention (SPCC) regulations, promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j). This determination includes discharges of oil that (1) violate applicable water quality standards, (2) cause a film, sheen, or discoloration of the surface of the water or the adjoining shoreline, or (3) cause a sludge or emulsion to be deposited beneath the surface of the

water or the adjoining shoreline, 40 C.F.R. § 110.3 and the failure to prepare and implement an SPCC plan, in accordance with 40 C.F.R. § 112.7. This authority has been properly delegated to the undersigned EPA official.

Respondent owns and/or operates Yellow Creek Gas Plant located at 4940 East Chalk Creek Road, Coalville, Utah.

Respondent admits that on or about May 1, 2002, its Yellow Creek Gas Plant discharged approximately twenty barrels or less of diesel into or upon an unnamed, ephemeral stream and/or its adjoining shorelines.

Respondent's discharge from its facility caused a sheen upon, or discoloration of, or caused a sludge or emulsion to be deposited on the surface of the unnamed, ephemeral stream and/or its adjoining shoreline.

Respondent's discharge constitutes a violation of Section 311 (b)(3) of the Act.

Respondent admits its facility is subject to the SPCC regulations.

Respondent admits that it failed to prepare and implement an SPCC Plan for Yellow Creek Gas Plant in accordance with 40 C.F.R. § 112.7.

Respondent agrees to correct the cited violations of 40 C.F.R. § 112.7 on the attached list within thirty (30) days unless an extension for achieving compliance is granted by EPA at its discretion.

Respondent agrees to submit a revised copy of the SPCC Plan for Yellow Creek Gas Plant to EPA for its review and approval.

Respondent admits that EPA has jurisdiction in this proceeding.

Respondent waives their right to a hearing before any civil tribunal, to contest any issue of law or fact set forth in this agreement.

This agreement, upon incorporation into a final order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including but not limited to any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement.

This Agreement contains all terms of the settlement agreed to by the parties.

Respondent consents and agrees to the assessment of a civil penalty of \$1,750.00;

\$500.00 for the discharge of oil in violation of Section 311(b)(3) of the Act and \$1,250.00 for violations of Section 311(j) of the Act, which, shall be paid by sending, via certified mail, a cashier's or certified check for that amount, payable to "Oil Spill Liability Trust Fund" along with a signed copy of this agreement, to:

Jane Nakad
Technical Enforcement Program (8ENF-T)
USEPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

Respondent states, under penalty of perjury, that they have (1) investigated the cause of the spill, (2) cleaned up the spill pursuant to federal requirements, (3) taken corrective actions to prevent future spills, and (4) Respondent will revise, implement, and maintain an SPCC plan in accordance with 40 C.F.R. § 112.7.

Respondent further agrees and consents that if Respondent fails to pay the penalty amount as required by this agreement once incorporated into the final order, or fails to make the corrective measures to obtain compliance or has not cleaned up the discharged oil as represented, this agreement is null and void, and EPA may pursue any applicable enforcement options.

The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this agreement and to bind Respondent to the terms and conditions of this agreement.

The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

Each party shall bear its own costs and attorneys fees in connection with this matter.

This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations described in this agreement.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION VIII,

Office of Enforcement Compliance and Environmental Justice, Complainant.

By : **Timothy Osag for/**
Elisabeth Evans, Director
Technical Enforcement Program

Duke Energy Field Services, LP, Respondent.

By: **SIGNED** Name: **Mitchell G. Griggs**

Title: **V. P. Environment, Health & Safety**

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **EXPEDITED CONSENT AGREEMENT/FINAL ORDER** in the matter of **DUKE ENERGY FIELD SERVICES, LP., DOCKET NO.: CWA-08-2003-0100** was filed with the Regional Hearing Clerk on September 30, 2003.

Further, the undersigned certifies that a true and correct copy of the document was delivered to David Janik, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on September 30, 2003, to:

Ruth Lang
Duke Energy Field Services, LP
370 17th Street, Suite 900
Denver, CO 80202

and

Commander
Finance Center (OGR)
U.S. Coast Guard
1430 A Kristina Way
Chesapeake, VA 23326

September 30, 2003

SIGNED _____
Tina Artemis
Regional Hearing Clerk

IF YOU WOULD LIKE COPIES OF THE ATTACHMENT, PLEASE CONTACT THE REGIONAL HEARING CLERK.

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON SEPTEMBER 30, 2003.